

The Honorable Robert S. Lasnik

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JOHN T. GOHRANSON, individually, and as
Personal Representative of the ESTATE OF
LINDSAY M. KRONBERGER,

Plaintiff,

v.

SNOHOMISH COUNTY, a Municipal
Corporation in the State of Washington;
ROBERT TRENARY; STUART ANDREWS,
M.D.; DAN MILLER; ELAINE GRAVATT;
GREGORY HARDY; SHERRISE HOLLAND;
LAUREN KOOIMAN; JEAN LEIGHT;
BETTY LUSK; JOY MAINE; LINET NGETE;
ANDREW FLETCHER; RACHELLE ROSE;
SHANE STEVIE; ROBIN OTTO; ROXANNE
MARLER, AND JOHN AND JANE DOES 1-
10; and MAXIM HEALTHCARE SERVICES,
INC. d/b/a MAXIM STAFFING SOLUTIONS,
a Maryland Corporation, and CASCADE
HEALTHCARE SERVICES LLC, a
Washington Limited Liability Corporation,

Defendants.

Case No. C16-01124-RSL

~~PROPOSED~~ STIPULATED
PROTECTIVE ORDER

NOTE ON MOTION CALENDAR:
MAY 23, 2017

STIPULATED PROTECTIVE ORDER

~~PROPOSED~~ STIPULATED PROTECTIVE ORDER - 1

Case No. C16-01124-RSL

SNOHOMISH COUNTY
PROSECUTING ATTORNEY - CIVIL DIVISION
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1. PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection may be warranted. Accordingly, the parties hereby stipulate to and petition the court to enter the following Stipulated Protective Order. The parties acknowledge that this agreement is consistent with LCR 26(c). It does not confer blanket protection on all disclosures or responses to discovery, the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles, and it does not presumptively entitle parties to file confidential information under seal.

2. "CONFIDENTIAL" MATERIAL

"Confidential" material shall include the following documents and tangible things produced or otherwise exchanged:

- a. All Snohomish County Jail employee or personnel records; records of this nature may contain medical and/or psychological records, home addresses, personal telephone numbers, social security information, date of birth, or any other personal information.
- b. Snohomish County Jail inmate records; records of this nature may contain medical and/or psychological records, social security information, date of birth, photographs, or any other private or confidential information. This includes, but is not limited to, healthcare records and Protected Health Information (PHI) related to inmates incarcerated in the Snohomish County Jail which is protected from disclosure pursuant to 45 CFR §164.12(e), RCW 70.02.060 and RCW 70.48.100.

- 1 c. The parties intend for this Order to comply with the requirements of RCW
2 70.48.100(c) that allows confidential inmate records to be made available "for use in
3 court proceedings upon the written order of the court in which the proceedings are
4 conducted."
- 5 d. Ongoing investigation files; files of this nature may contain confidential medical
6 records or may not yet be complete.
- 7 e. Autopsy/Cause of death information or reports.
- 8 f. All independent nursing agency employee or personnel records; records of this nature
9 may contain medical and/or psychological records, home addresses, personal
10 telephone numbers, social security information, date of birth, or any other personal
11 information.
- 12 g. Any other information to be requested in discovery that has an equivalent need for
13 protection from disclosure as this items identified in subparagraphs 2(a) through (f).

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16 3. SCOPE

17 The protections conferred by this agreement cover not only confidential material (as
18 defined above), but also (1) any information copied or extracted from confidential material; (2)
19 all copies, excerpts, summaries, or compilations of confidential material; and (3) any testimony,
20 conversations, or presentations by parties or their counsel that might reveal confidential material.
21 However, the protections conferred by this agreement do not cover information that is in the
22 public domain or becomes part of the public domain through trial or otherwise.

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24 4. ACCESS TO AND USE OF CONFIDENTIAL MATERIAL
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1 4.1. Basic Principles. A receiving party may use confidential material that is disclosed
2 or produced by another party or by a non-party in connection with this case only for prosecuting,
3 defending, or attempting to settle this litigation. Confidential material may be disclosed only to
4 the categories of persons identified and under the conditions described in this agreement.
5 Confidential material must be stored and maintained by a receiving party at a location and in a
6 secure manner that ensures that access is limited to the persons authorized under this agreement.
7

8 4.2. Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise ordered
9 by the court or permitted in writing by the designating party, a receiving party may disclose any
10 confidential material only to:

11 a) the receiving party's counsel of record in this action, as well as employees
12 of counsel to whom it is reasonably necessary to disclose the information for this litigation;
13

14 b) the officers, directors, and employees (including in house counsel) of the
15 receiving party to whom disclosure is reasonably necessary for this litigation, unless the parties
16 agree that a particular document or material produced is for Attorney's Eyes Only and is so
17 designated;
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19 c) experts and consultants to whom disclosure is reasonably necessary for this
20 litigation and who have signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A);
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22 d) the court, court personnel, and court reporters and their staff;
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24 e) copy or imaging services retained by counsel to assist in the duplication of
25 confidential material, provided that counsel for the party retaining the copy or imaging service
26 instructs the service not to disclose any confidential material to third parties and to immediately
27 return all originals and copies of any confidential material;

1 f) during their depositions, witnesses in the action to whom disclosure is
2 reasonably necessary and who have signed the "Acknowledgment and Agreement to Be Bound"
3 (Exhibit A), unless otherwise agreed by the designating party or ordered by the court. Pages of
4 transcribed deposition testimony or exhibits to depositions that reveal confidential material must
5 be separately bound by the court reporter and may not be disclosed to anyone except as permitted
6 under this agreement;

7
8 g) the author or recipient of a document containing the information or a
9 custodian or other person who otherwise possessed or knew the information.

10 4.3. Filing Confidential Material. Before filing confidential material or discussing or
11 referencing such material in court filings, the filing party shall confer with the designating party
12 to determine whether the designating party will remove the confidential designation, whether the
13 document can be redacted, or whether a motion to seal or stipulation and proposed order is
14 warranted. Local Civil Rule 5(g) sets forth the procedures that must be followed and the standards
15 that will be applied when a party seeks permission from the court to file material under seal.
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17 5. DESIGNATING PROTECTED MATERIAL

18 5.1. Exercise of Restraint and Care in Designating Material for Protection. Each party
19 or non-party that designates information or items for protection under this agreement must take
20 care to limit any such designation to specific material that qualifies under the appropriate
21 standards. The designating party must designate for protection only those parts of material,
22 documents, items, or oral or written communications that qualify, so that other portions of the
23 material, documents, items, or communications for which protection is not warranted are not
24 swept unjustifiably within the ambit of this agreement.
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1 Mass, indiscriminate, or routinized designations are prohibited. Designations that are
2 shown to be clearly unjustified or that have been made for an improper purpose (e.g., to
3 unnecessarily encumber or delay the case development process or to impose unnecessary
4 expenses and burdens on other parties) expose the designating party to sanctions.

5 If it comes to a designating party's attention that information or items that it designated
6 for protection do not qualify for protection, the designating party must promptly notify all other
7 parties that it is withdrawing the mistaken designation.
8

9 5.2. Manner and Timing of Designations. Except as otherwise provided in this
10 agreement (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or
11 ordered, disclosure or discovery material that qualifies for protection under this agreement must
12 be clearly so designated before or when the material is disclosed or produced.
13

14 a) Information in documentary form: (e.g., paper or electronic documents and
15 deposition exhibits, but excluding entire transcripts of depositions or other pretrial or trial
16 proceedings), the designating party must affix the word "CONFIDENTIAL" to each page that
17 contains confidential material. If only a portion or portions of the material on a page qualifies for
18 protection, the producing party also must clearly identify the protected portion(s) (e.g., by
19 marking appropriate markings in the margins).
20

21 b) Testimony given in deposition or other pretrial or trial proceedings: the
22 parties must identify on the record, during the deposition, hearing, or other proceeding, all
23 protected testimony, without prejudice to their right to so designate other testimony after
24 reviewing the transcript. Any party or non-party may, within fifteen (15) days after receiving a
25 deposition transcript, designate portions of the transcript, or exhibits thereto, as confidential.
26

1 c) Other tangible items: the producing party must affix in a prominent place
2 on the exterior of the container or containers in which the information or item is stored the word
3 "CONFIDENTIAL." If only a portion or portions of the information or item warrant protection,
4 the producing party, to the extent practicable, shall identify the protected portion(s).

5 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to
6 designate qualified information or items does not, standing alone, waive the designating party's
7 right to secure protection under this agreement for such material. Upon timely correction of a
8 designation, the receiving party must make reasonable efforts to ensure that the material is treated
9 in accordance with the provisions of this agreement.
10

11 6. CHALLENGING CONFIDENTIAL DESIGNATIONS

12 6.1. Timing of Challenges. Any party or non-party may challenge a designation of
13 confidentiality at any time. Unless a prompt challenge to a designating party's confidentiality
14 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic
15 burdens, or a significant disruption or delay of the litigation, a party does not waive its right to
16 challenge a confidentiality designation by electing not to mount a challenge promptly after the
17 original designation is disclosed.
18

19 6.2. Meet and Confer. The parties must make every attempt to resolve any dispute
20 regarding confidential designations without court involvement. Any motion regarding
21 confidential designations or for a protective order must include a certification, in the motion or in
22 a declaration or affidavit, that the movant has engaged in a good faith meet and confer conference
23 with other affected parties in an effort to resolve the dispute without court action. The certification
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1 must list the date, manner, and participants to the conference. A good faith effort to confer requires
2 a face-to-face meeting or a telephone conference.

3 6.3. Judicial Intervention. If the parties cannot resolve a challenge without court
4 intervention, the designating party may file and serve a motion to retain confidentiality under
5 Local Civil Rule 7 (and in compliance with Local Civil Rule 5(g), if applicable). The burden of
6 persuasion in any such motion shall be on the designating party. Frivolous challenges, and those
7 made for an improper purpose (e.g., to harass or impose unnecessary expenses and burdens on
8 other parties) may expose the challenging party to sanctions. All parties shall continue to maintain
9 the material in question as confidential until the court rules on the challenge.
10

11 7. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER
12 LITIGATION

13 If a party is served with a subpoena or a court order issued in other litigation that compels
14 disclosure of any information or items designated in this action as "CONFIDENTIAL," that party
15 must:

16 a) promptly notify the designating party in writing and include a copy of the
17 subpoena or court order;

18 b) promptly notify in writing the party who caused the subpoena or order to
19 issue in the other litigation that some or all of the material covered by the subpoena or order is
20 subject to this agreement. Such notification shall include a copy of this agreement; and
21

22 c) cooperate with respect to all reasonable procedures sought to be pursued
23 by the designating party whose confidential material may be affected.
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25 8. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL
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1 If a receiving party learns that, by inadvertence or otherwise, it has disclosed confidential
2 material to any person or in any circumstance not authorized under this agreement, the receiving
3 party must immediately (a) notify in writing the designating party of the unauthorized disclosures,
4 (b) use its best efforts to retrieve all unauthorized copies of the protected material, (c) inform the
5 person or persons to whom unauthorized disclosures were made of all the terms of this agreement,
6 and (d) request that such person or persons execute the "Acknowledgment and Agreement to Be
7 Bound" that is attached hereto as Exhibit A.
8

9 9. INADVERTENT PRODUCTION OR PRIVILEGED OR OTHERWISE PROTECTED
10 MATERIAL

11 When a producing party gives notice to receiving parties that certain inadvertently
12 produced material is subject to a claim of privilege or other protection, the obligations of the
13 receiving parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision
14 is not intended to modify whatever procedure may be established in an e-discovery order or
15 agreement that provides for production without prior privilege review. Parties shall confer on an
16 appropriate non-waiver order under Fed. R. Evid. 502.
17

18 10. NON TERMINATION AND RETURN OF DOCUMENTS

19 Within sixty (60) days after the termination of this action, including all appeals, each
20 receiving party must return all confidential material to the producing party, including all copies,
21 extracts and summaries thereof. Alternatively, the parties may agree upon appropriate methods
22 of destruction.
23

24 Notwithstanding this provision, counsel are entitled to retain one archival copy of all
25 documents filed with the court, trial, deposition, and hearing transcripts, correspondence,
26

1 deposition and trial exhibits, expert reports, attorney work product, and consultant and expert
2 work product, even if such materials contain confidential material.

3 The confidentiality obligations imposed by this agreement shall remain in effect until a
4 designating party agrees otherwise in writing or a court orders otherwise.

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8 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

9 Dated this ____ day of April, 2017.

Dated this ____ day of April, 2017.

10
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Dated this 23rd day of May, 2017.

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27 [PROPOSED] STIPULATED PROTECTIVE ORDER - 10

Case No. C16-01124-RSL

SNOHOMISH COUNTY
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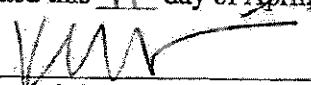
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7 deposition and trial exhibits, expert reports, attorney work product, and consultant and expert
8 work product, even if such materials contain confidential material.

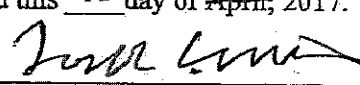
9 The confidentiality obligations imposed by this agreement shall remain in effect until a
10 designating party agrees otherwise in writing or a court orders otherwise.
11
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14

15 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

16 Dated this 16 day of ^{May} April 2017.

17 
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Dated this 15 day of ^{May} April, 2017.


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Dated this ____ day of April, 2017.

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[PROPOSED] STIPULATED PROTECTIVE ORDER - 10

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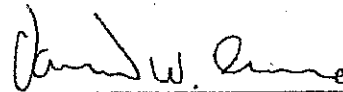
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34 [PROPOSED] STIPULATED PROTECTIVE ORDER - 11

35 Case No. C16-01124-RSL

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PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated this 24th day of May, 2017.



The Honorable Robert S. Lasnik

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of _____ [print or type full address], declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order that was issued by the United States District Court for the Western District of Washington on _____ [date] in the case of *John T. Gohranson, et al., v. Snohomish County, et al.*, Western District of Washington, Cause No. C16-01124-RSL. I agree to comply with and to be bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Western District of Washington for the purpose of enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action.

Date: _____

City and State where sworn and signed: _____

Printed Name: _____

Signature: _____